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ABSTRACT

This report explores the fiscal implications of providing procedural safeguards in special education and is part of the Special Education Expenditure Project (SEEP), a national study utilizing 23 different surveys to collect data at the state, district, and school levels for the 1999-2000 school year. Highlighted findings address: (1) total expenditures on special education mediation, due process, and litigation; (2) percent of total special education expenditures; (3) per pupil spending; (4) per case spending; (5) number of mediation, due process, and litigation cases; (6) districts with procedural safeguard activity; (7) resolution of due process cases; and (8) perceptions of the cost-effectiveness of mediation versus due process. Among findings are the following: during the 1999-2000 school year, school districts spent at least 0.3% of total special education expenditures or $24 per special education pupil on due process, mediation, and litigation; due process hearings comprise the majority of procedural safeguard activities and 98% of such hearings are resolved; about half of litigation cases are resolved, usually in the school district's favor; procedural safeguard activity is concentrated in 38% of the nation's school districts, especially in urban and/or high income districts. Appendices provide methodological and statistical detail and the questionnaire. (Contains 10 references.) (DB)

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SEEP

Special Education Expenditure Project

Center for Special Education Finance
CSEF

What Are We Spending on Procedural Safeguards in Special Education, 1999–2000?

Report 04
May 2003

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Submitted to: United States Department of Education, Office of Special Education Programs

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SEEP Reports

This document is a part of a series of reports based on descriptive information derived from the Special Education Expenditure Project (SEEP), a national study conducted by the American Institutes for Research (AIR) for the U.S. Department of Education, Office of Special Education Programs (OSEP). SEEP is being conducted by AIR under the auspices of the Center for Special Education Finance (CSEF). It is the fourth project sponsored by the U.S. Department of Education and its predecessor, the Department of Health, Education and Welfare, in the past 40 years to examine the nation's spending on special education and related services. See Kakalik, Furry, and Carney (1981), Moore, Strang, Schwartz, and Braddock (1988), and Rossmiller, Hale, and Frohreich (1970).

The SEEP reports are based on analyses of extensive data for the 1999-2000 school year. The SEEP includes 23 different surveys to collect data at the state, district, and school levels. Survey respondents included state directors of special education, district directors of special education, district directors of transportation services, school principals, special education teachers and related service providers, regular education teachers, and special education aides. Survey responses were combined with other requested documents and data sets from states, schools, and districts to create databases that represented a sample of approximately 10,000 students with disabilities, more than 5,000 special education teachers and related service providers, approximately 5,000 regular education teachers, more than 1,000 schools, and well over 300 local education agencies.

The series of SEEP reports will provide descriptive information on the following issues:

- What are we spending on special education services for students with disabilities in the U.S.?
- How does special education spending vary across types of public school districts?
- What are we spending on due process for students with disabilities?
- What are we spending on transportation services for students with disabilities?
- How does education spending vary for students by disability and what factors explain differences in spending by disability?
- What role do functional abilities play in explaining spending variations for students with disabilities?
- What are we spending on preschool programs for students with disabilities?
- Who are the teachers and related service providers who serve students with disabilities?
- How are special education teaching assistants used to serve students with disabilities?
- What are we spending on special education services in different types of schools?
- How does special education spending vary across states classified by funding formula, student poverty, special education enrollment levels, and income levels?

One of the SEEP reports will also be devoted to describing the purpose and design of the study.

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Highlights

- **Total expenditures on special education mediation, due process, and litigation.** During the 1999-2000 school year, the nation's school districts spent around $146.5 million on due process, mediation, and litigation activities for all K-12 special education students in public schools.

- **Percent of total special education expenditures.** Special education mediation, due process, and litigation expenditures account for only 0.3 percent of total special education expenditures.

- **Per pupil spending.** When applied to the entire special education population of nearly 6.2 million students, the expenditure per special education pupil on mediation, due process, and litigation activities is approximately $24.

- **Per case spending.** The expenditure per mediation or due process case ranges from $8,160 to $12,200, while the average expenditure in 1999-2000 on an open litigation case was approximately $94,600.

- **Number of mediation, due process, and litigation cases.** In 1998-1999, there were 6,763 due process cases in 1,842 districts; 4,266 mediation cases in 1,775 districts; and 301 litigation cases filed in 246 districts.

- **Districts with procedural safeguard activity.** The SEEP data suggest that procedural safeguard cases are concentrated in less than two-fifths of the nation's school districts.

- **Resolution of due process cases.** While nearly half of litigation cases went unresolved in 1998-1999, over 98 percent of due process cases were resolved. Of those, 56 percent were resolved in favor of the district and 34 percent were resolved in favor of the family, with the remaining cases resulting in a split decision.

- **Perceptions of the cost-effectiveness of mediation versus due process.** Of the districts reporting on cost-effectiveness, an overwhelming majority of respondents (96 percent) reported that mediation is more cost-effective than due process.

I. Introduction

Federally mandated in 1975 by the Education for All Handicapped Children Act (now known as the Individuals with Disabilities Education Act, IDEA), the impartial due process hearing is a unique feature in the provision of special education and related services. This hearing is a part of the procedural safeguards—which also include complaint resolution, mediation, and the right to a civil trial—built into the IDEA to ensure parental rights. It is designed to be a fair and timely procedure for resolving disputes that arise between parents and school districts regarding the education of students with disabilities.

The cornerstone of the IDEA is that all eligible children and youth with disabilities are entitled to a free appropriate public education (FAPE). In order to ensure that FAPE is provided, the law requires that school districts keep parents informed about their child's education, involve them in the decision-making process about special education evaluations and placements, and also guarantee an impartial due process hearing in a neutral forum in which parents may challenge school district actions. The IDEA also states that parents must be notified of procedural safeguards when disciplinary action is being considered for a special education student, such as suspension or change of placement. One of the critical changes that shaped the current due process environment is the 1985 IDEA amendment that entitles parents who prevail to any and all expenses including attorney's fees from the losing district and/or state.[1] Such reimbursement does not apply to prevailing districts.

In short, the IDEA mandates that any state education agency (SEA) or local education agency (LEA) establish and maintain procedures that allow parents to challenge any matter related to the identification, evaluation, education placement of the child, or the provision of a free and appropriate public education to such a child. There are several options available to address such disputes: the state's complaint resolution system, mediation, an impartial due process hearing, or civil action.

Any organization or individual may submit a signed written complaint to the SEA, while only parents (or a student of age exercising his or her rights) or a public agency may initiate a due process hearing. The state is legally required to investigate and resolve any complaint submitted within 60 days, unless the complaint is being addressed by a due process hearing (in which case, the issues being addressed are set aside until the end of the hearing). The SEA submits the final decision in writing to the complainant, which addresses the findings of the investigation and reasons for the decision. In the event that corrective action must be taken, the SEA must inform the public agency of the decision, cite the corrective action to be taken, and ensure that the action is completed in a timely manner. While the complaint is being investigated, parents may request a due process

[1] Lanigan, Audette, Dreier, and Kobersy (2001).

hearing. However, parents are not required to submit a complaint to the state before requesting a due process hearing.

Both mediation and due process hearings can be initiated either by a parent or a public agency, and both mechanisms are designed to resolve disputes related to identification, evaluation, placement, or FAPE. However, there are some important differences in mediation and due process. In mediation, the participating parties establish the ground rules, and the process is entirely voluntary. In contrast, once a due process hearing is initiated, all required parties must participate, and the rules and remedies available are those that have been established by federal and state law for all hearings. Furthermore, the mediator serves as a facilitator and does not make decisions regarding the mediation case. On the other hand, the hearing officer in a due process case is "required to make conclusions of fact and law and to render a legal judgment that includes the specific remedies."[2]

Under the law, a parent can initiate a due process hearing by filing a request with the education agency at the district or state level (depending on the jurisdiction's due process structure).[3] If the parent chooses due process over mediation, the basic structure of hearing follows the general outline of a civil trial but with fewer formalities than a court proceeding. The decision made by an impartial hearing officer in a due process case is binding, but can be appealed by either party by filing a civil action in state or federal court.

The 1997 amendments to the IDEA place explicit emphasis on voluntary mediation as a means for resolving disputes between parents and schools. The states are required to establish mediation procedures and ensure that the process is voluntary and conducted by a qualified and impartial mediator trained in effective mediation techniques. Furthermore, mediation must not deny the parent's right to due process. The states are also obligated to maintain a list of qualified mediators and assume responsibility for mediation costs. If resolution is reached, the mediation decision must be in writing and is binding.[4]

In addition to internal dispute resolution procedures such as mediation and due process, parents also have the right to challenge the local and state education agencies or appeal due process decisions in a state or federal court. This civil action is referred to as litigation in this report.

While district resources may be diverted to address procedural safeguards, these safeguards help to identify and rectify noncompliance with the IDEA and ensure that all children with disabilities receive FAPE. Addressing the issues raised by the safeguards may then enhance the quality of the special education programs offered by the district.

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[2] Office of Special Education Programs (OSEP), U.S. Department of Education, Memorandum OSEP 01-5. 30 November 2000.

[3] See Ahearn (2002) for description of state structures for due process hearings.

[4] OSEP notes that it is usually more difficult to appeal a mediation agreement under most states' contracts law. Memorandum OSEP 01-5.

Overview of Report

This report explores some of the fiscal implications of providing procedural safeguards. Specifically, it addresses five questions based on data derived from the Special Education Expenditure Project (SEEP).

- *What are we spending on mediation, due process, and litigation in special education?*
- *What is the prevalence of mediation cases, due process hearings, and litigation cases in special education?*
- *What are the characteristics of districts reporting procedural safeguards?*
- *How have disputes been resolved by due process and litigation?*
- *Do districts perceive mediation to be cost-effective?*

Due to the nature of the survey questions, it is important to note that the data reported here may include IDEA procedural safeguards, as well as those provided for by Section 504 by the Rehabilitation Act of 1973. In addition, states may also have their own provisions and regulations regarding due process protections for students with disabilities, which may affect the data reported by districts on the numbers of procedural safeguard actions.

While much of the report pertains to procedural safeguard activities that occurred during the 1998-1999 school year (the year prior to the SEEP surveys), the spending estimates presented in this report are based on the 1999-2000 school year.[5] This report and other SEEP reports use the phrase "student with a disability" to refer to a student receiving special education services, as determined by the student's Individual Education Program (IEP), under the Individuals with Disabilities Education Act (IDEA).

Data Sources

Spending estimates for this analysis, along with information on other aspects related to the prevalence of special education procedural safeguard activities, are based on data collected from the following SEEP surveys.[6]

- *District Questionnaire, Part II – Special Education Programs.* This survey obtained useful data from 247 respondent districts on expenditures for mediation, due process, and litigation; prevalence of procedural safeguard activity; resolution by due process and litigation; and the perceptions of the cost-effectiveness of mediation. (Appendix D contains the specific items used to collect the information about the level of procedural safeguard activity. This information should be useful in comparing the SEEP results with other surveys conducted on this same topic.) In addition, this survey collected data by object of expenditures on spending for special education administration and support

[5] All figures presented in this report are based on a sample of districts designed to generalize to all districts in the 50 states and the District of Columbia.
[6] Copies of the SEEP surveys may be obtained from the website at www.seep.org.

services occurring in the central office. These data were used in conjunction with the *Central Office Staff Questionnaire* to estimate spending on procedural safeguards.

- *Central Office Staff Questionnaire.* This survey collected data from 917 special education central office administrative and support staff from 245 sample districts about how they allocated their time among various general administrative activities, as well as specific support activities such as mediation, litigation, assessment, evaluation, and pre-referral activities.

Data from these two surveys were combined to estimate the allocation of expenditures on various activities related to the procedural safeguards. Specifically, the information on the percentage of time spent by various types of central office staff on procedural safeguard activities was combined with information on total spending on these staff in order to estimate expenditures for 1999-2000. The district questionnaire also provided the information used in the analysis of the patterns of variation in procedural safeguard activities across districts.

II. What Are We Spending on Special Education Mediation, Due Process, and Litigation?

In the 1999-2000 school year, it is estimated that school districts spent approximately $146.5 million on special education mediation, due process, and litigation activities.[7] *This represents less than one-half of one percent (i.e., 0.3 percent, to be exact) of total special education expenditures.*[8] Of the $146.5 million, districts spent approximately $90.2 million on mediation and due process, and $56.3 million on litigation cases (see Exhibit 1). These figures include both personnel and non-personnel expenditures. The total expenditure on procedural safeguards breaks down to $15 per special education student for due process and mediation and $9 per special education student for litigation cases, for a total of $24. These per pupil figures were obtained by dividing the total estimated expenditures on procedural safeguards by the nearly 6.2 million students with disabilities, regardless of whether or not they were involved in mediation, due process, or litigation cases.

Exhibit 1. Expenditures on Special Education Mediation, Due Process, and Litigation Cases, 1999-2000

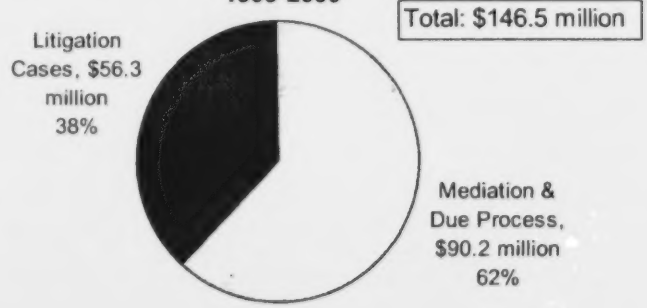

Exhibit 1 reads: Of the $146.5 million spent on procedural safeguards in 1999-2000, $90.2 million was spent on mediation and due process activities, while $56.3 million was expended on litigation cases.

[7] These expenditures may include procedural safeguard activity not attributed exclusively to the IDEA, such as those arising under the provisions of Section 504 of the Rehabilitation Act of 1973 and individual state provisions.

[8] Total special education expenditures amounted to approximately $50 billion in 1999-2000. Please see Chambers, Parrish, and Harr (2002).

Exhibit 2 shows how these expenditures were distributed by type of resource: professional staff (e.g., the district director of special education and other central office administrative and support personnel); non-certified staff (e.g., clerical and secretarial personnel) employed in the central office; contracted personnel (e.g., legal services personnel and private psychologists) who support central office activities; and non-personnel expenditures related to these activities. The largest amount ($95 million) was spent on professional staff, accounting for 65 percent of the expenditures on procedural safeguards. Seventeen percent or $24.7 million was spent on contracted personnel services (e.g., including legal services), while $17.9 million or 12 percent of the total was spent on non-certified staff. Only 6 percent ($8.7 million) was spent on non-personnel related expenditures.

Exhibit 2. Personnel and Non-Personnel Expenditures on Special Education Mediation, Due Process, and Litigation Activities, 1999-2000

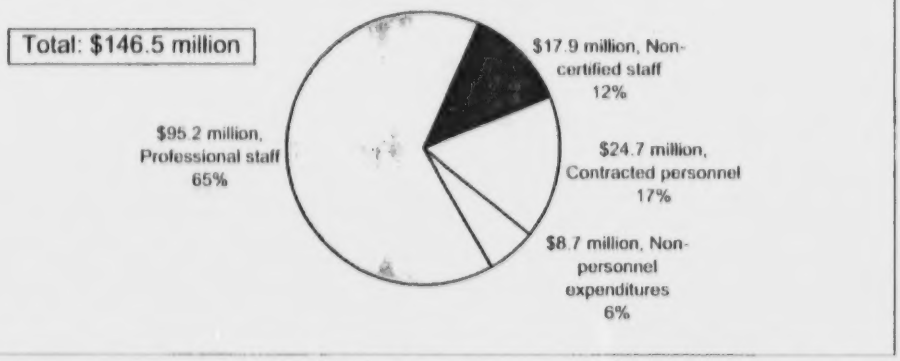
Total: $146.5 million
$17.9 million, Non-certified staff 12%
$24.7 million, Contracted personnel 17%
$8.7 million, Non-personnel expenditures 6%
$95.2 million, Professional staff 65%

Exhibit 2 reads: Of the $146.5 million spent on procedural safeguards in 1999-2000, $95.2 million was spent on professional staff, while $24.7 million was expended on contracted personnel.

It is important to note that the expenditures reported above may somewhat underestimate total spending on procedural safeguards for several reasons. First, the data do not include expenditures for time that may have been spent by school level personnel such as teachers or related service providers on activities related to procedural safeguards (e.g., hearing appearances or providing information to those who do appear). Second, due to the nature of the survey questions, it is unclear whether the litigation expenditure includes reimbursements for legal expenses to which families are entitled from the district under the IDEA, should the family prevail in the court case. Finally, it is unclear whether SEEP data include expenditures on action taken at the district level to respond to complaints made to the state education agencies (SEAs). However, complaint resolution is largely a state-level activity, and SEAs dismissed nearly 80 percent of complaints lodged against districts in 1998-99. Thus, district-level expenditures on complaint resolution activity may well be negligible.

III. Prevalence of Mediation Cases, Due Process Hearings, and Litigation Cases

Data on prevalence of mediation cases, due process hearings, and litigation cases related to special education for the 1998-99 school year were also analyzed in this study. Exhibit 3 shows how these cases are divided among mediation, due process and litigation. According to SEEP estimates, 6,763 due process cases were initiated in 1998-99, comprising the largest number of special education procedural safeguard activities. Other national data on these hearings are available from Project FORUM (of the National Association of State Directors of Special Education), which collected survey data from all 50 states and the District of Columbia on due process hearings from 1991 to 2000.[9] The Project FORUM data show that 3,315 and 3,126 due process hearings were held in 1998 and 1999, respectively.[10] However, the Project FORUM data figures are for hearings that were *held*. In 1998, 9,827 hearings were *requested* while 9,971 hearing requests were made in 1999. Ahearn (2002) suggests that some of these requests may not have led to formal hearings because the requests were canceled or the parties resolved the issues through other means.

As noted in the Project FORUM report (2002), there is no mandate for national data collection on due process hearings. While individual states have self-assessments on dispute resolution as part of the U.S. Department of Education, Office of Special Education Programs' Continuous Improvement Monitoring Process, Project FORUM stresses the importance of compiling and analyzing state data at the national level in order to evaluate improvements in special education.

SEEP analysis also shows that there were an estimated 4,266 mediation cases submitted by districts to the SEAs. Furthermore, during the 1998-99 school year, there were an estimated 301 litigation cases initiated involving services for special education students above and beyond the complaints, mediation, and due process hearings. In addition, there were 293 ongoing litigation cases that were active during the 1998-99 school year.

Although *n*ot included in Exhibit 3 and in the expenditure per case analysis below, there were an estimated 6,360 *complaints* against districts submitted to SEAs in 1998-99. Of those, nearly 80 percent (4,925 complaints) were dismissed.

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[9] Ahearn (2002).

[10] Both Project FORUM and SEEP analysts acknowledge that the disparity between the two studies may be explained by differences in wording of the survey questions and in the ways in which the respondents answered. For instance, some SEEP respondents may have included both *requests* for hearings as well as hearings *held* in the count of due process cases, as there was no distinction made in the survey. Due to these factors, it is not surprising that the SEEP and Project FORUM studies produce different figures. Further research will be required to obtain more accurate information on these counts of due process activities.

Exhibit 3: Number of Special Education Mediation Cases, Due Process Hearings, Litigation Cases, 1998-99

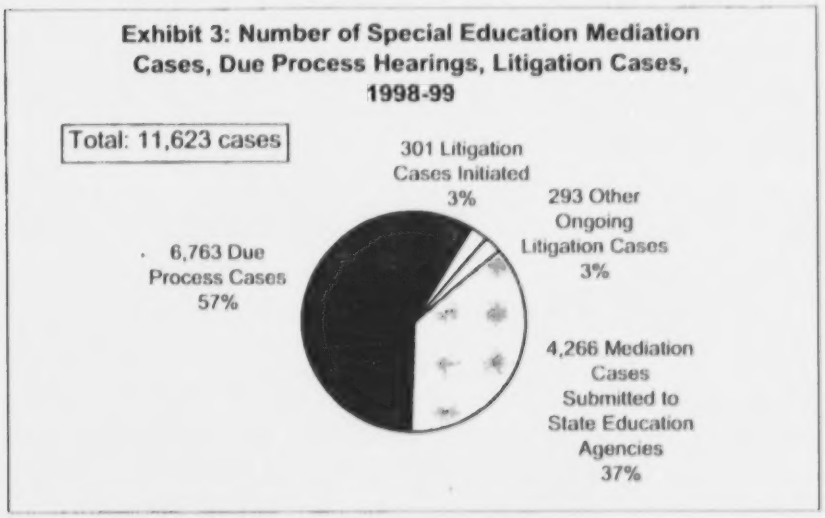
Total: 11,623 cases
301 Litigation Cases Initiated 3%
293 Other Ongoing Litigation Cases 3%
6,763 Due Process Cases 57%
4,266 Mediation Cases Submitted to State Education Agencies 37%

Exhibit 3 reads: In 1998-99, 4,266 mediation cases were submitted to state education agencies, while 6,763 due process cases were initiated.

To estimate the expenditures per procedural safeguard case, it was assumed that the number of cases shown in Exhibit 3 increased in proportion to the rise in special education enrollment nationwide from 1998-99 to 1999-2000. Those numbers were then divided into the 1999-2000 district expenditures on mediation, due process, and litigation activities (Exhibit 1). It is estimated that about $8,160 was spent on the average mediation or due process case in 1999-2000. An alternative figure was estimated using the two-year average of due process hearings in 1999 and 2000 reported by Project FORUM. This average was combined with the expected growth in the number of mediation cases, resulting in an expenditure of $12,200 per mediation or due process case.

In contrast, the estimated average annual expenditure per open litigation case (combining those initiated and those ongoing) amounted to $94,600 in 1999-2000. This figure does not necessarily reflect the total expenditures on a case from the time that it was initiated to when a ruling was made, but rather what was spent on average in 1999-2000 for any given case open during that year.

Again the reader is reminded that these expenditures per case may be underestimated because of the inability to include any expenditures associated with the time spent by teachers or related service providers who may have been involved in these activities. As mentioned earlier, it is also unclear whether the litigation figure includes districts' reimbursement of legal expenses to families when they prevail in court, to which they are entitled under the IDEA. The reader should treat these estimated per case amounts with care, as they are estimates derived from different survey sources. Furthermore, the

expenditures may include special education mediation, due process, or litigation cases other than those attributed exclusively to the IDEA provisions (e.g., Section 504 of the Rehabilitation Act and individual state provisions). Nevertheless, these data serve to provide some idea of the overall magnitude of spending and an estimate of the expenditure per case for certain procedural safeguard activities.

While the SEEP provides the most comprehensive national data to date, the limitations surrounding the expenditures per case show that more research in this area is needed.

Characteristics of Districts with Cases

The SEEP data suggest that procedural safeguard cases tend to be concentrated in less than two-fifths of the nation's school districts. An estimated 62 percent of districts reported that they did not have any cases involving complaints, mediation, due process, or litigation during the 1998-99 school year, whereas 38 percent of the nation's districts reported some type of procedural safeguard activity. More specifically, 28 percent of all districts had complaints, 12.5 percent had mediation cases, 13 percent had due process cases, and 2 percent had litigation cases, both initiated and ongoing.[11]

Examining district characteristics, such as urbanicity, median family income, and district size, may provide further insight into the prevalence of complaints and case types. For each of these three district attributes, three different analyses are presented.[12] The first looks at the overall distribution of district characteristics across districts with and districts without procedural safeguard activity. The second analysis examines the percentages of districts that reported each type of procedural safeguard activity in 1998-99, by urbanicity, median family income, and district size. For instance, what percentage of all urban districts had complaints, mediation, due process, or litigation cases? The third analysis looks at the rates of procedural safeguard activity per 10,000 special education students, by district characteristics. (See Appendix A for the means and standard errors. See also Appendix B and C for tests of statistical significance for the percentages of districts with procedural activity and the rates per 10,000 special education students, respectively.)

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[11] Of the 14,191 weighted districts which were analyzed, 5,437 reported procedural safeguard activity: 3,958 districts had complaints, 1,775 had mediation cases, 1,842 had due process cases, and 324 had initiated and ongoing litigation cases. The Study of State and Local Implementation and Impact of IDEA (SLIIDEA), conducted by Abt Associates (Schiller et al., 2003), showed that 13 percent of districts had at least one mediation case, a finding that corresponds with SEEP data (12.5 percent). While SEEP data indicate that 13.0 percent of districts had due process activity, SLIIDEA reported that six percent of districts had due process hearings. The difference may be due to the fact that, in the SEEP study, due process activity was measured. Due process activity can include both hearings and requests for hearings (which might not have resulted in formal hearings during the focal year). In SLIIDEA study, due process *hearings* were measured. Even if both studies were measuring due process activity, their results are not statistically significantly different from each other, as SLIIDEA's average (6 percent) is within the 95 percent confidence interval of the SEEP estimate (5.3 percent to 20.6 percent).

[12] Seventeen districts were removed from the analysis on district characteristics, as their survey response rates did not allow for comparisons across all procedural safeguard types. These 17 districts represented 650 weighted districts.

Urbanicity

Exhibit 4 shows the distribution of districts without and with at least one type of procedural safeguard activity by urbanicity. For instance, of the 62 percent of districts without any type of activity, 0.5 percent are urban, whereas 5.6 percent of districts *with* cases are urban. This suggests that urban districts tend to be disproportionately represented among districts with procedural safeguard activity, and this difference is statistically significant.

Exhibit 4. Percentages of Districts With and Without Procedural Safeguard Activity, by District Urbanicity, 1998-99

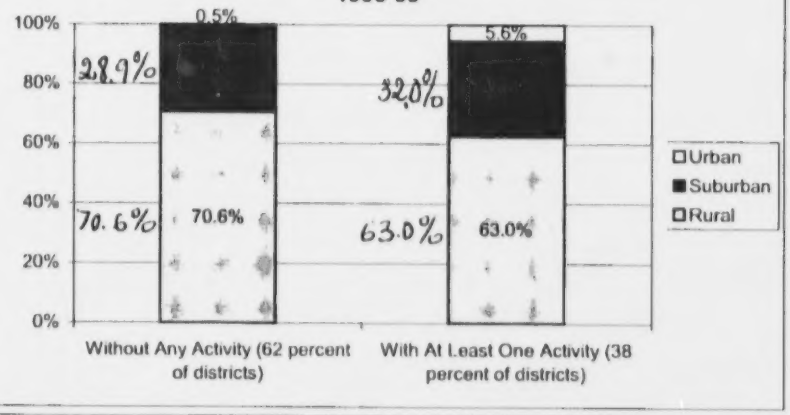

Exhibit 4 reads: Of the 38 percent of districts reporting at least one procedural safeguard activity in 1998-99, 63 percent were rural while 5.6 percent were urban.

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Exhibit 5 continues this analysis by examining the percentages of districts reporting cases within their urbanicity category. The percentages of urban districts reporting at least one occurrence of any procedural activity (87 percent), mediation cases (44 percent), and due process cases (50 percent) are statistically significantly higher than the percentages of rural and suburban districts. Over twice as many urban districts have at least one type of activity, in comparison to rural and suburban districts. Although not statistically significantly different, over half (57 percent) of all urban districts reported having one or more complaints submitted against them, while over one in four (27 percent) suburban districts and one in three (33 percent) rural districts reported one or more complaints.

Exhibit 5. Percentages of Districts with Cases, by District Urbanicity, 1998-99

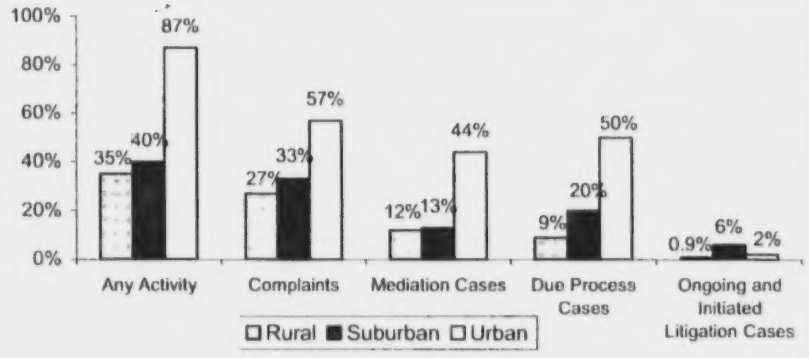

Exhibit 5 reads: Fifty percent of all urban districts reported at least one due process case in 1998-99, in comparison to only nine percent of rural districts.

As urban districts tend to be substantially larger than those that are rural and suburban,[13] it is important to account for the number of students in each district category. Analysis on the number of procedural safeguard activities per 10,000 special education students adjusts for the size of the district, and the results are shown in Exhibit 6. While there is variation by district urbanicity, the pattern is not conclusive. While in the previous analysis urban districts are statistically significantly more likely to have any type of activity and mediation cases (Exhibit 5), rural and urban districts have comparable rates per 10,000 special education students for these activities. Similar to the previous exhibit, however, urban districts have greater rates of due process cases than their rural and suburban counterparts. None of these differences are statistically significant.

Exhibit 6. Rates of Procedural Safeguard Activities per 10,000 Special Education Students, by District Urbanicity, 1998-99

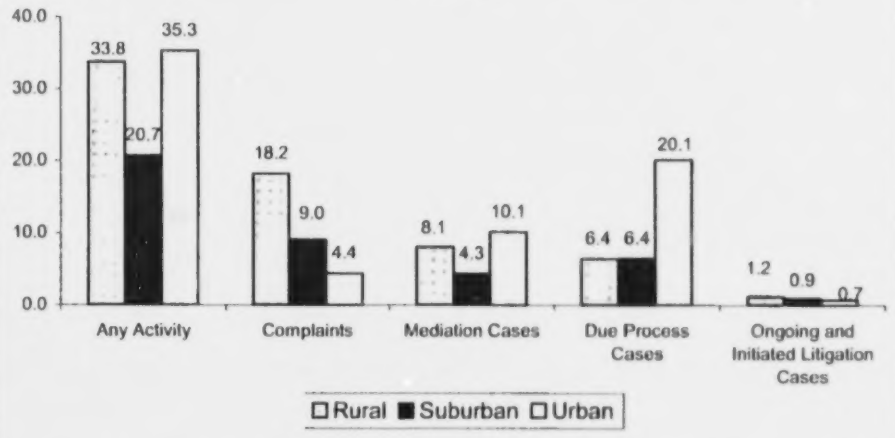

Exhibit 6 reads: Rural districts have 18.2 complaints per 10,000 special education students, compared to the rates of 9.0 and 4.4 per 10,000 special education students for suburban and urban districts, respectively.

[13] Levine, McLaughlin, and Sietsema (1996).

Median Family Income

When looking at the distribution of procedural activity by median family income categories (Exhibit 7)[14], the highest income districts make up a larger proportion (29.6 percent) of districts with procedural safeguard activity, in comparison to the proportion of districts without cases (7.8 percent). While not statistically significant, this suggests that districts with higher income families are disproportionately represented among those districts with procedural safeguard activity. The difference between middle income districts without any activity (40.1 percent) and those with at least one activity (17.3) is statistically significant.

Exhibit 7. Percentages of Districts With and Without Procedural Safeguard Activity, by Districts' Median Family Income, 1998-99

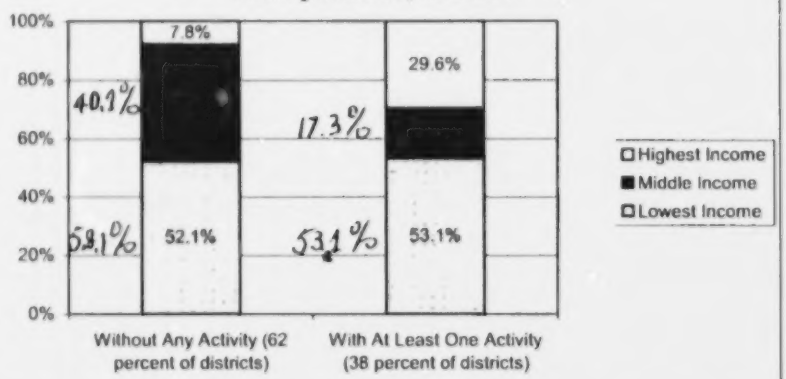

Exhibit 7 reads: While 7.8 percent of the districts without procedural activity in 1998-99 were in the highest income category, nearly 30 percent of districts *with* procedural activity were in this income bracket.

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[14] The district median family incomes used in these analyses were derived from the 1990 U.S. data organized by school district.

When looking at the prevalence of cases within income categories, the overall pattern shows that the highest income districts are more likely to have procedural safeguard activity than other income categories. Exhibit 8 shows that the highest income districts are more than four times as likely to have mediation and due process cases than the lower income districts, and these differences are statistically significant. The highest income districts were also statistically significantly more likely to have any type of procedural activity than suburban districts (70 percent to 21 percent, respectively). The percentages for complaints and litigation cases are not statistically significant different across income categories.

Exhibit 8. Percentages of Districts with Cases, by Districts' Median Family Income, 1998-99

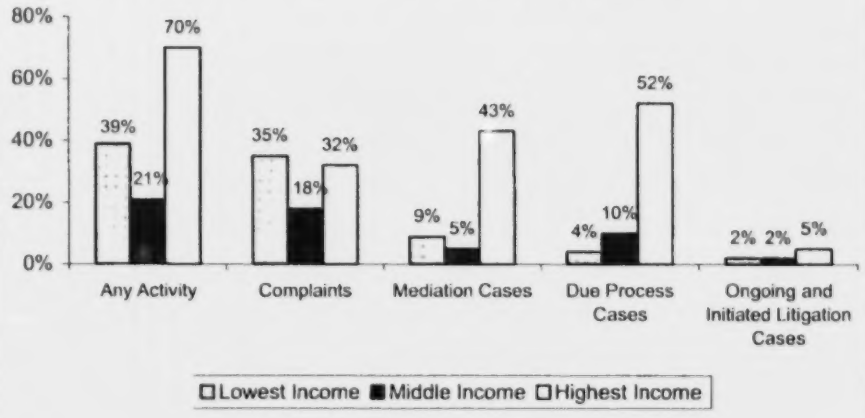

Exhibit 8 reads: While four percent of the lowest income districts had due process cases submitted in 1998-99, the highest income districts are thirteen times more likely to have a due process case.

Exhibit 9 shows the rates of procedural safeguard activities in all districts per 10,000 special education students by median family income. The trends here are similar to those in the previous exhibit, with the highest income districts having greater overall rates, as well as rates of mediation and due process cases, than other income categories. None of these observations, however, are statistically significant.

Exhibit 9. Rates of Procedural Safeguard Activities per 10,000 Special Education Students, by Districts' Median Family Income, 1998-99

Exhibit 9 reads: The highest income districts have greater rates of mediation and due process cases than the lowest and middle income districts.

District Size

Exhibit 10 shows that districts with 5,000 students or more are disproportionately represented among the districts with procedural safeguard activity. For example, 7.5 percent of districts with cases were in the largest size category, compared to only one-half percent of districts without cases, and this difference is statistically significant.

Exhibit 10. Percentages of Districts With and Without Procedural Safeguard Activity, 1998-99

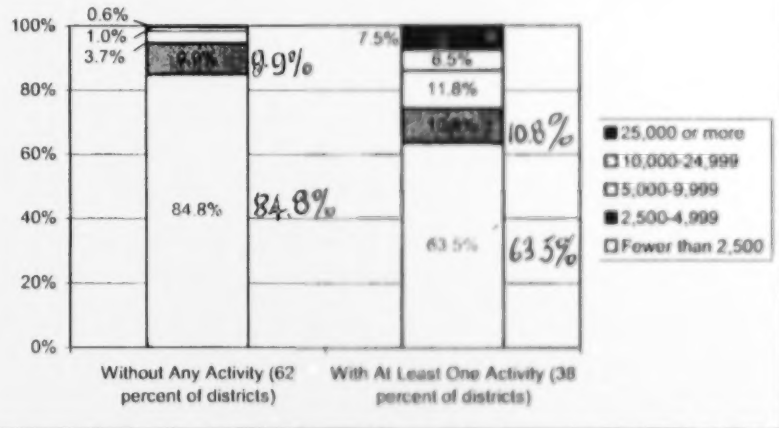

Exhibit 10 reads: Of districts without procedural activity in 1998-99, 5.3 percent had 5,000 or more students, while 25.8 percent of districts *with* procedural activity had 5,000 or more students.

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As shown in Exhibit 11, an upward trend is apparent, with larger districts more likely than smaller districts to exhibit procedural safeguard activities of all kinds. The percentages of the smallest and second smallest districts reporting cases are statistically significantly lower than percentages of the largest districts across all activities except for litigation. However, this is to be expected as larger districts have more special education students, and therefore there is greater potential for procedural safeguard activities.

Exhibit 11. Percentages of Districts with Cases, by District Size (Total Enrollment), 1998-99

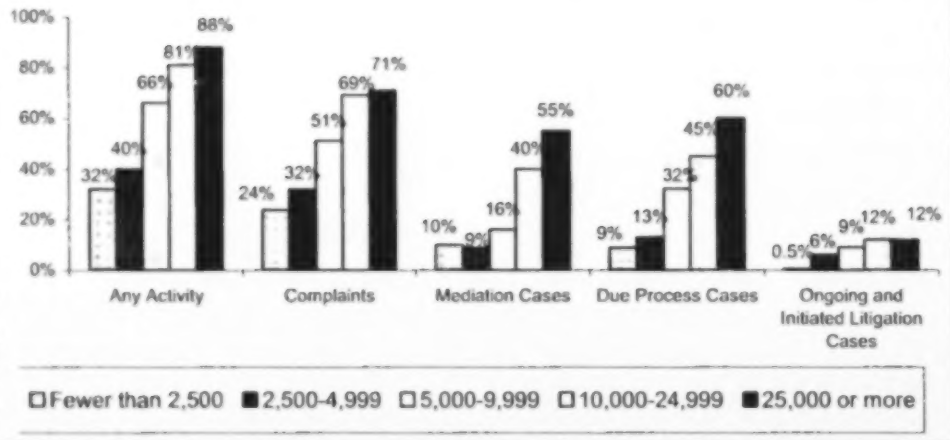

Exhibit 11 reads: With a student population 25,000 or more, the largest districts are most likely to have due process cases (60 percent), while the smallest districts are least likely (9 percent).

While larger districts appeared more likely in the previous exhibit to have procedural safeguard activities than smaller districts, the pattern reverses itself when the rates of cases per 10,000 special education students are examined. The smallest districts have higher overall rates of activity, as well as higher rates of complaints and mediation cases, than the largest districts. None of these rates are statistically significant across size categories.

Exhibit 12. Rates of Procedural Safeguard Activities per 10,000 Special Education Students by District Size (Total Enrollment), 1998-99

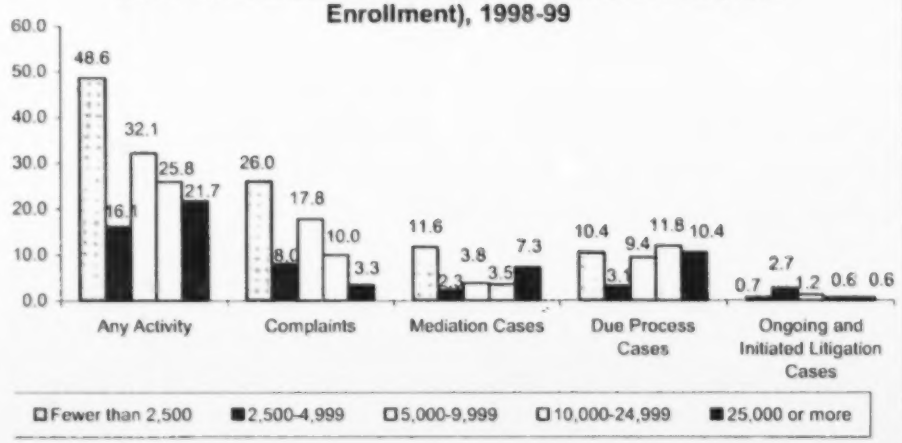

Exhibit 12 reads: The largest districts (equal to or more than 25,000 students) have lower rates of complaints than the smallest districts (<2,500 students).

Summary

The overall percentages of districts reporting cases within each district characteristic category suggest that urban districts are statistically significantly more likely to have activity than their rural counterparts. Districts with 25,000 students or more are more likely to have activity than districts with fewer than 5,000 students, and the highest income districts are more likely to have activity than middle income districts. Larger districts and urban districts may not be as responsive to parents due to their more complex bureaucracies, which may result in a higher level of complaints. In addition, larger districts have a larger pool of special education students, which will increase the potential for activity. However, when looking at the rates of procedural safeguard activities per 10,000 special education students, different patterns emerge by district size. The smallest districts have higher overall rates and rates of complaints and mediation cases than the largest districts (although differences are not statistically significant).

Patterns remained similar when looking at the percentages of districts with cases and the rates per 10,000 special education students by income category. The percentages of the highest income districts reporting mediation, and due process cases are statistically significantly greater than lower income districts. The highest income districts also have higher (although not statistically significantly higher) *rates* of mediation and due process cases than other income categories. These findings are consistent with the notion that higher income may provide families with financial resources to pursue procedural safeguards. Family income may also be associated with higher parental education levels, which indicates that parents may be more aware of their legal rights and be more likely to engage in due process.

The reader should keep in mind that these analyses are descriptive in nature and not intended to establish causal links. Nevertheless, the relationships between prevalence of cases and district characteristics are of interest.

IV. Resolution of Due Process and Litigation Cases

The study also examined the ways in which due process and litigation cases were resolved in 1998-99. The resolution information provided on the survey represent 3,276 due process cases and 464 litigation cases.[15] An overwhelming 98 percent of due process hearings were resolved, while almost half of litigation cases were unresolved during the year in which the survey was administered. Exhibit 13 shows the percentage of cases that were resolved in favor of the family versus the district, resulted in a split decision, or were unresolved. Over half (55.7 percent) of the due process cases were resolved in favor of the district; over one-third (34.4 percent) were resolved in favor of the family; and 8 percent resulted in a split decision.[16] Fewer than 2 percent of due process cases went unresolved. In contrast, nearly half of litigation cases (almost 49 percent) went unresolved. Of the 51.3 percent of litigation cases that were resolved, over half (30.1 out of the 51.3 percent) were resolved in favor of the district, and about one-sixth (8.7 percent) were resolved in favor of the family. The remainder of litigation cases (12.5 percent) resulted in a split decision.

Exhibit 13. Percentage of Due Process and Litigation Cases Resolved in Favor of Family, in Favor of District, Split Decision, or Unresolved, 1998-99

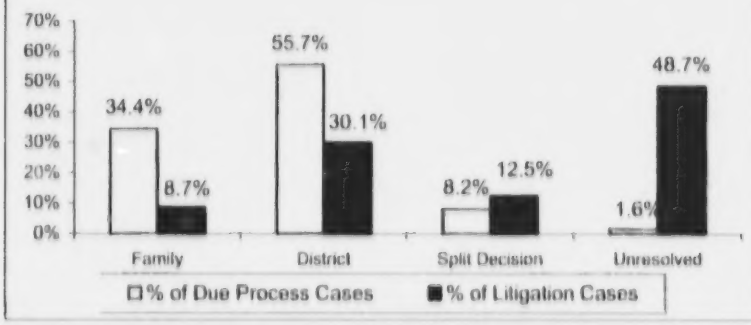

Exhibit 13 reads: Over 55 percent of due process cases and 30 percent of litigation cases were found in favor of the district. Nearly 49 percent of litigation cases went unresolved, in comparison to fewer than 2 percent of due process cases.

[15] Data were not available on how complaints and mediation cases were resolved.

[16] In collecting data on the outcome of due process hearings, the National Longitudinal Transition Study-2 (NLTS-2; Wagner, 2003) asked parents, "Did you receive the services you asked for, not receive the services you asked for, partially receive what you asked for, or something else?" The NLTS-2 study reports that 62 percent of parents believed that the outcome of the due process hearing resulted in the services they asked for, with 17 percent reporting that they did *not* get the services. SEEP asked district administrators, "How many of these cases [e.g., due process or court cases] were resolved in favor of the family, in favor of the district, split decisions, unresolved?" (See Appendix D, questions 11.3.D and 11.4.F). While the NLTS-2 findings differ from SEEP, it may be that the respondents had different interpretations of the dispute, its resolution, and who "won." For instance, a district may have had to concede some ground as a result of the hearing decision, but as it did not fully satisfied the parents' demands, the district may have interpreted that decision as being in favor of the district, and vice versa.

V. Perceptions of the Cost-Effectiveness of Mediation

According to the Office of Special Education Programs, mediation is frequently less costly both financially and emotionally than due process hearings.[17] Of the districts that reported on the cost-effectiveness of mediation, an overwhelming number (96.3 percent) believed that mediation is more cost-effective than due process. A small subset of reporting districts (3.5 percent) indicated that there is no financial difference to the district between mediation and due process, while .1 percent specified that mediation is less cost-effective than due process.

Exhibit 14: Districts Reporting Perceptions on the Cost-Effectiveness of Mediation, 1998-99

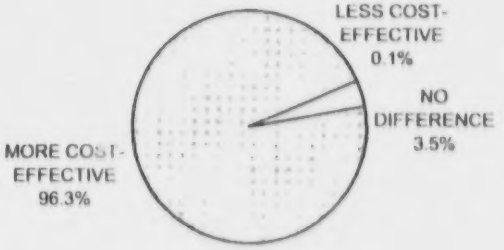

Exhibit 14 reads: Of districts that reported on cost-effectiveness, 96.3 percent perceived mediation to be more cost-effective than due process hearings, while 3.5 percent indicated there was no difference.

[17] Office of Special Education Programs (OSEP), U.S. Department of Education, Memorandum OSEP 01-5. 30 November 2000.

VI. Summary and Conclusions

During the 1999-2000 school year, school districts spent approximately $146.5 million on special education due process, mediation, and litigation activities for all K-12 special education students in public schools. This represents about 0.3 percent of total special education expenditures. About three-fifths of these funds were expended on due process and mediation services, while the other two-fifths were spent on litigation cases. However, the total expenditure is likely a lower bound estimate since the figures do not include time spent on procedural safeguard activities by school-level personnel, such as teachers or related service providers. It is also unclear whether the expenditures include districts' reimbursement of legal expenses due to families when they prevail in court. When viewed on a per pupil basis, the expenditure on procedural safeguards amounts to only $24 per special education pupil. However, it is estimated that the average expenditure per mediation or due process case ranges from $8,160 to $12,200, while the average expenditure in 1999-2000 on an open litigation case amounts to $94,600. This figure does not represent the full expenditures on a litigation case from the time it was filed to its resolution. Rather the expenditure reflects what was spent on average in 1999-2000 on any given open case.

The data also show that due process hearings make up the majority of procedural safeguard activities with an estimated 6,763 cases across the U.S, while an estimated 4,266 mediation cases were initiated. An overwhelming 98 percent of due process hearings were resolved, while almost half of litigation cases were unresolved in 1998-99. Among the litigation cases that were resolved within that year, districts were more than three times as likely to have the case resolved in their favor than the families.

Procedural safeguard activity appears to be concentrated in less than two-fifths (38 percent) of the nation's school districts. Overall, urban districts are statistically significantly more likely to have activity than their rural counterparts; districts with 25,000 students or more are more likely to have activity than districts with fewer than 5,000 students; and the highest income districts are more likely to have activity than middle income districts. More specifically, 52 percent of the highest income districts reported at least one due process case, 13 times the percentage of lowest income districts (4 percent). These results may be due to greater parental financial resources and higher parental education levels.

These results may also reflect the fact that there are more special education students in these district categories. In fact, although not statistically significant, the smallest districts have *higher* overall rates as well as rates of complaints and mediation per 10,000 special education students than larger districts.

Aside from SEEP and a few other studies, national data on due process hearings and other activities are lacking, and more detailed research should be carried out to achieve a better understanding of the expenditures on and prevalence of procedural safeguards in special education.

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Appendix A

Means and Standard Errors

Table A-1. Weighted Districts and Cases of Procedural Safeguard Activity, and Standard Errors (Exhibit 3)

	Total Weighted Number of Districts with Cases	Total Weighted Number of Cases	Standard Error (for Cases)
Complaints Against Districts	3,958	6,360	1,364
Complaints Against Districts Dismissed	3,654	4,925	1,337
Mediation Cases Submitted to SEA	1,775	4,266	1,567
Due Process Cases Initiated	1,842	6,763	2,134
Litigation Cases Initiated	246	301	134
Litigation Cases Ongoing	189	293	141

Table A-2. Means and Standard Errors for the Percentages of Districts With and Without Procedural Safeguard Activity by District Urbanicity (Exhibit 4)

District Characteristic	Mean	Standard Error
Without Any Type of Activity		
Urban	.5%	.5%
Suburban	28.9%	6.2%
Rural	70.6%	6.2%
With At Least One Activity		
Urban	5.6%	2.5%
Suburban	31.5%	11.7%
Rural	62.9%	13.3%

Table A-3. Means and Standard Errors for the Percentages of Districts with Procedural Activities by District Urbanicity (Exhibit 5)

District Characteristic	Mean	Standard Error
With Any Type of Activity		
Urban	87%	11%
Suburban	40%	7%
Rural	35%	13%
With Complaints		
Urban	57%	14%
Suburban	33%	7%
Rural	27%	14%
With Complaints Dismissed		
Urban	49%	14%
Suburban	31%	7%
Rural	25%	14%
With Mediation Cases		
Urban	44%	15%
Suburban	13%	3%
Rural	12%	6%
With Due Process Cases		
Urban	50%	14%
Suburban	20%	5%
Rural	9%	5%
With Litigation Cases		
Urban	2%	2%
Suburban	6%	2%
Rural	.9%	.9%

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Table A-4. Means and Standard Errors for the Number of Procedural Activities per 10,000 Special Education Students by District Urbanicity (Exhibit 6)

District Characteristic	Mean	Standard Error
With Any Type of Activity		
Urban	35.3	21.8
Suburban	20.7	6.6
Rural	33.8	13.2
With Complaints		
Urban	4.4	2.0
Suburban	9.0	2.9
Rural	18.2	10.5
With Mediation Cases		
Urban	10.1	8.9
Suburban	4.3	1.6
Rural	8.1	4.6
With Due Process Cases		
Urban	20.1	12.3
Suburban	6.4	2.6
Rural	6.4	4.0
With Litigation Cases		
Urban	.7	.7
Suburban	.9	.4
Rural	1.2	1.3

Table A-5. Means and Standard Errors for the Percentages of Districts With and Without Procedural Safeguard Activity by District Median Family Income (Exhibit 7)

District Characteristic	Mean	Standard Error
Without Any Type of Activity		
Lowest Income	52.1%	8.6%
Middle Income	40.1%	8.9%
Highest Income	7.8%	1.9%
With At Least One Activity		
Lowest Income	53.1%	16.6%
Middle Income	17.3%	7.4%
Highest Income	29.6%	12.1%

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Table A-6. Means and Standard Errors for Percentages of Districts with Procedural Activities by Districts' Median Family Income (Exhibit 8)

District Characteristic	Mean	Standard Error
With Any Type of Activity		
Lowest Income	39%	16%
Middle Income	21%	7%
Highest Income	70%	9%
With Complaints		
Lowest Income	35%	16%
Middle Income	18%	7%
Highest Income	32%	9%
With Complaints Dismissed		
Lowest Income	35%	16%
Middle Income	14%	6%
Highest Income	27%	8%
With Mediation Cases		
Lowest Income	9%	5%
Middle Income	5%	2%
Highest Income	43%	13%
With Due Process Cases		
Lowest Income	4%	2%
Middle Income	10%	4%
Highest Income	52%	12%
With Litigation Cases		
Lowest Income	2%	1%
Middle Income	2%	2%
Highest Income	5%	3%

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Table A-7. Means and Standard Errors for the Number of Procedural Activities per 10,000 Special Education Students by Median Family Income (Exhibit 9)

District Characteristic	Mean	Standard Error
With Any Type of Activity		
Lowest Income	24.5	9.9
Middle Income	14.7	7.4
Highest Income	44.7	21.0
With Complaints		
Lowest Income	17.1	8.6
Middle Income	5.7	2.7
Highest Income	9.7	4.7
With Mediation Cases		
Lowest Income	4.4	2.6
Middle Income	2.7	1.5
Highest Income	13.1	7.5
With Due Process Cases		
Lowest Income	1.8	1.2
Middle Income	5.8	3.5
Highest Income	20.8	10.5
With Litigation Cases		
Lowest Income	1.2	1.1
Middle Income	.5	.4
Highest Income	1.1	.7

Table A-8. Means and Standard Errors for the Percentages of Districts With and Without Procedural Safeguard Activity by District Size (Exhibit 10)

District Characteristic	Mean	Standard Error
Without Any Activity		
< 2,500	84.8%	3.9%
2,500-4,999	9.9%	3.2%
5,000-9,999	3.7%	1.7%
10,000-24,999	1.0%	0.7%
>25,000	0.6%	0.5%
With At Least One Activity		
< 2,500	63.5%	13.1%
2,500-4,999	10.8%	4.9%
5,000-9,999	11.8%	5.2%
10,000-24,999	6.5%	3.1%
>25,000	7.5%	3.2%

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Table A-9. Means and Standard Errors for Percentages of Districts with Procedural Activities by District Size (Exhibit 11)

District Characteristic	Mean	Standard Error
With Any Type of Activity		
< 2,500	32%	12%
2,500-4,999	40%	11%
5,000-9,999	66%	12%
10,000-24,999	81%	12%
>25,000	88%	8%
With Complaints		
< 2,500	24%	13%
2,500-4,999	32%	10%
5,000-9,999	51%	12%
10,000-24,999	69%	14%
>25,000	71%	11%
With Complaints Dismissed		
< 2,500	23%	13%
2,500-4,999	24%	9%
5,000-9,999	51%	12%
10,000-24,999	56%	15%
>25,000	54%	12%
With Mediation Cases		
< 2,500	10%	5%
2,500-4,999	9%	6%
5,000-9,999	16%	8%
10,000-24,999	40%	15%
>25,000	55%	13%
With Due Process Cases		
< 2,500	9%	5%
2,500-4,999	13%	8%
5,000-9,999	32%	11%
10,000-24,999	45%	15%
>25,000	60%	13%
With Litigation Cases		
< 2,500	.5%	.3%
2,500-4,999	6%	6%
5,000-9,999	9%	8%
10,000-24,999	11%	11%
>25,000	12%	8%

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Table A-10. Means and Standard Errors for the Number of Procedural Activities per 10,000 Special Education Students by Median Family Income (Exhibit 12)

District Characteristic	Mean	Standard Error
With Any Type of Activity		
< 2,500	48.6	17.8
2,500-4,999	16.1	5.1
5,000-9,999	32.1	11.8
10,000-24,999	25.8	9.4
>25,000	21.7	10.6
With Complaints		
< 2,500	26.0	14.5
2,500-4,999	8.0	2.5
5,000-9,999	17.8	6.5
10,000-24,999	10.0	3.9
>25,000	3.3	1.1
With Mediation Cases		
< 2,500	11.6	6.2
2,500-4,999	2.3	1.4
5,000-9,999	3.8	2.3
10,000-24,999	3.5	1.4
>25,000	7.3	4.4
With Due Process Cases		
< 2,500	10.4	5.7
2,500-4,999	3.1	1.8
5,000-9,999	9.3	4.1
10,000-24,999	11.8	8.0
>25,000	10.4	5.7
With Litigation Cases		
< 2,500	.7	.5
2,500-4,999	2.7	2.6
5,000-9,999	1.2	.9
10,000-24,999	.6	.5
>25,000	.6	.4

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Table A-11. Means and Standard Errors for Resolution of Due Process and Litigation Cases (Exhibit 13)

	Weighted Number of Resolved Cases	Weighted Number of Cases by Resolution Type	Mean	Standard Error
Due Process Cases				
Resolved in Favor of the Family	3,276	1,126	34.4%	268.1
Resolved in Favor of the District	3,276	1,826	55.7%	972.3
Split Decision	3,276	270	8.2%	64.6
Unresolved	3,276	54	1.6%	24.8
Litigation Cases				
Resolved in Favor of the Family	464	40	8.7%	15.4
Resolved in Favor of the District	464	140	30.1%	120.3
Split Decision	464	58	12.5%	48.3
Unresolved	464	226	48.7%	73.6

Table A-12. Means and Standard Errors for Perceptions of Cost-Effectiveness of Mediation (Exhibit 14)

	Total Number of Weighted Districts Reporting	Number of Weighted Districts by Perception of Cost-Effectiveness	Mean	Standard Error
Mediation is more cost-effective than due process hearings	4,312	4,153	96.3%	2.6%
Mediation is less cost-effective than due process hearings	4,312	6	.1%	.15%
There is no difference in cost-effectiveness	4,312	152	3.5%	2.6%

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Appendix B

Tests of Statistical Significance for the Percentages of Districts with and without Any Activity and Districts with Procedural Safeguard Activities, by District Characteristics[18]

Table B-1. Districts With and Without Any Activity by Urbanicity (Exhibit 4)

Base	Comparison	t Value
Urban Districts *Without* Activity	Urban Districts With At Least One Activity	2.02
Suburban Districts *Without* Activity	Suburban Districts With At Least One Activity	0.20
Rural Districts *Without* Activity	Rural Districts With At Least One Activity	-0.52

[18] If the t Value is greater than 1.96 or less than −1.96, the difference between the percentage for the base category and the percentage for the comparison is statistically significant. For example, when the percentage of suburban districts are compared to that of urban districts, the t Value is 3.47, which is greater than 1.96; therefore, the difference between the percentages for urban and suburban districts is statistically significant.

Table B-2. Districts With Activity by Urbanicity (Exhibit 5)

Base	Comparison	t Value
With Any Type of Activity		
Urban	Suburban	3.47
Urban	Rural	2.91
Suburban	Rural	0.31
With Complaint		
Urban	Suburban	1.55
Urban	Rural	1.54
Suburban	Rural	0.42
With Complaints Dismissed		
Urban	Suburban	1.20
Urban	Rural	1.22
Suburban	Rural	0.37
With Mediation Cases		
Urban	Suburban	2.02
Urban	Rural	1.99
Suburban	Rural	0.17
With Due Process Cases		
Urban	Suburban	2.00
Urban	Rural	2.65
Suburban	Rural	1.44
With Litigation Cases		
Urban	Suburban	-0.95
Urban	Rural	0.56
Suburban	Rural	1.75

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Table B-3. Districts With and Without Any Activity by Median Family Income (Exhibit 7)

Base	Comparison	t Value
Highest Income Districts *Without* Activity	Highest Income Districts With At Least One Activity	0.06
Middle Income Districts *Without* Activity	Middle Income Districts With At Least One Activity	-1.97
Lowest Income Districts *Without* Activity	Lowest Income Districts With At Least One Activity	1.78

Table B-4. Median Family Income (Exhibit 8)

Base	Comparison	t Value
With Any Type of Activity		
Lowest Income	Middle Income	1.02
Lowest Income	Highest Income	-1.76
Middle Income	Highest Income	-4.28
With Complaints		
Lowest Income	Middle Income	0.99
Lowest Income	Highest Income	0.18
Middle Income	Highest Income	-1.22
With Complaints Dismissed		
Lowest Income	Middle Income	1.20
Lowest Income	Highest Income	1.22
Middle Income	Highest Income	0.37
With Mediation Cases		
Lowest Income	Middle Income	0.78
Lowest Income	Highest Income	-2.39
Middle Income	Highest Income	-2.81
With Due Process Cases		
Lowest Income	Middle Income	-1.34
Lowest Income	Highest Income	-3.99
Middle Income	Highest Income	-3.41
With Litigation Cases		
Lowest Income	Middle Income	-0.19
Lowest Income	Highest Income	-1.13
Middle Income	Highest Income	-0.94

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Table B-5. Districts With and Without Any Activity by District Size (Exhibit 10)

Base	Comparison	t Value
Districts with <2,500 Students *Without* Activity	Districts with <2,500 Students With At Least One Activity	-1.56
Districts with 2,500-4,999 Students *Without* Activity	Districts with 2,500-4,999 Students With At Least One Activity	0.14
Districts with 5,000-9,999 Students *Without* Activity	Districts with 5,000-9,999 Students With At Least One Activity	1.48
Districts with 10,000-24,999 Students *Without* Activity	Districts with 10,000-24,999 Students With At Least One Activity	1.77
Districts with >25,000 Students *Without* Activity	Districts with >25,000 Students With At Least One Activity	2.13

Table B-6. District Size (Exhibit 11)

Base	Comparison	t Value
With Any Type of Activity		
<2,500	2,500-4,999	-0.52
<2,500	5,000-9,999	-2.03
<2,500	10,000-24,999	-2.81
<2,500	>25,000	-3.86
2,500-4,999	5,000-9,999	-1.65
2,500-4,999	10,000-24,999	-2.49
2,500-4,999	>25,000	-3.62
5,000-9,999	10,000-24,999	-0.85
5,000-9,999	>25,000	-1.55
10,000-24,999	>25,000	-0.52
With Complaints		
<2,500	2,500-4,999	-0.51
<2,500	5,000-9,999	-1.56
<2,500	10,000-24,999	-2.43
<2,500	>25,000	-2.84
2,500-4,999	5,000-9,999	-1.21
2,500-4,999	10,000-24,999	-2.18
2,500-4,999	>25,000	-2.66
5,000-9,999	10,000-24,999	-0.97
5,000-9,999	>25,000	-1.22
10,000-24,999	>25,000	-0.12
With Complaints Dismissed		
<2,500	2,500-4,999	-0.09
<2,500	5,000-9,999	-1.58
<2,500	10,000-24,999	-1.64
<2,500	>25,000	-1.73
2,500-4,999	5,000-9,999	-1.74
2,500-4,999	10,000-24,999	-1.76
2,500-4,999	>25,000	-1.91
5,000-9,999	10,000-24,999	-0.22
5,000-9,999	>25,000	-0.14
10,000-24,999	>25,000	0.09

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Table B-3. District Size (cont.)

Base	Comparison	t Value
With Mediation Cases		
<2,500	2,500-4,999	0.16
<2,500	5,000-9,999	-0.53
<2,500	10,000-24,999	-1.84
<2,500	>25,000	-3.26
2,500-4,999	5,000-9,999	-0.64
2,500-4,999	10,000-24,999	-1.90
2,500-4,999	>25,000	-3.30
5,000-9,999	10,000-24,999	-1.40
5,000-9,999	>25,000	-2.61
10,000-24,999	>25,000	-0.77
With Due Process Cases		
<2,500	2,500-4,999	-0.53
<2,500	5,000-9,999	-1.94
<2,500	10,000-24,999	-2.27
<2,500	>25,000	-3.80
2,500-4,999	5,000-9,999	-1.39
2,500-4,999	10,000-24,999	-1.82
2,500-4,999	>25,000	-3.13
5,000-9,999	10,000-24,999	-0.64
5,000-9,999	>25,000	-1.63
10,000-24,999	>25,000	-0.79
With Litigation Cases		
<2,500	2,500-4,999	-0.95
<2,500	5,000-9,999	-1.13
<2,500	10,000-24,999	-1.05
<2,500	>25,000	-1.48
2,500-4,999	5,000-9,999	-0.34
2,500-4,999	10,000-24,999	-0.49
2,500-4,999	>25,000	-0.62
5,000-9,999	10,000-24,999	-0.22
5,000-9,999	>25,000	-0.26
10,000-24,999	>25,000	0.01

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Appendix C

Tests of Statistical Significance for the Number of Procedural Safeguard Activities per 10,000 Special Education Students, by District Characteristics[19]

Table C-1. Urbanicity (Exhibit 6)

Base	Comparison	t Value
With Any Type of Activity		
Urban	Suburban	0.64
Urban	Rural	0.06
Suburban	Rural	-0.89
With Complaints		
Urban	Suburban	-1.32
Urban	Rural	-1.29
Suburban	Rural	-0.84
With Mediation Cases		
Urban	Suburban	0.64
Urban	Rural	0.21
Suburban	Rural	-0.77
With Due Process Cases		
Urban	Suburban	1.08
Urban	Rural	1.06
Suburban	Rural	0.01
With Litigation Cases		
Urban	Suburban	-0.27
Urban	Rural	-0.37
Suburban	Rural	-0.23

[19] If the t Value is greater than 1.96 or less than –1.96, the difference between the rates for the base category and the rates for the comparison is statistically significant. For example, when the rates for the highest income districts are compared to those of middle income districts, the t Value is –0.89, which is greater than -1.96; therefore, the difference between the rates for middle and highest districts is not statistically significant.

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Table C-2: Median Family Income (Exhibit 9)

Base	Comparison	t Value
With Any Type of Activity		
Lowest Income	Middle Income	0.79
Lowest Income	Highest Income	-0.87
Middle Income	Highest Income	-1.35
With Complaints		
Lowest Income	Middle Income	1.25
Lowest Income	Highest Income	0.74
Middle Income	Highest Income	-0.74
With Mediation Cases		
Lowest Income	Middle Income	0.58
Lowest Income	Highest Income	-1.09
Middle Income	Highest Income	-1.35
With Due Process Cases		
Lowest Income	Middle Income	-1.09
Lowest Income	Highest Income	-1.79
Middle Income	Highest Income	-1.35
With Litigation Cases		
Lowest Income	Middle Income	0.58
Lowest Income	Highest Income	0.07
Middle Income	Highest Income	-0.71

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Table C-3. District Size (Exhibit 12)

Base	Comparison	t Value
With Any Type of Activity		
< 2,500	2,500-4,999	1.76
< 2,500	5,000-9,999	0.77
< 2,500	10,000-24,999	1.14
< 2,500	>25,000	1.30
2,500-4,999	5,000-9,999	-1.24
2,500-4,999	10,000-24,999	-0.91
2,500-4,999	>25,000	-0.47
5,000-9,999	10,000-24,999	0.42
5,000-9,999	>25,000	0.66
10,000-24,999	>25,000	0.29
With Complaints		
< 2,500	2,500-4,999	1.22
< 2,500	5,000-9,999	0.52
< 2,500	10,000-24,999	1.06
< 2,500	>25,000	1.55
2,500-4,999	5,000-9,999	-1.41
2,500-4,999	10,000-24,999	-0.43
2,500-4,999	>25,000	1.71
5,000-9,999	10,000-24,999	1.03
5,000-9,999	>25,000	2.20
10,000-24,999	>25,000	1.62
With Mediation Cases		
< 2,500	2,500-4,999	1.46
< 2,500	5,000-9,999	1.18
< 2,500	10,000-24,999	1.29
< 2,500	>25,000	0.57
2,500-4,999	5,000-9,999	-0.54
2,500-4,999	10,000-24,999	-0.59
2,500-4,999	>25,000	-1.06
5,000-9,999	10,000-24,999	0.12
5,000-9,999	>25,000	-0.69
10,000-24,999	>25,000	-0.82

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Table C-3. District Size (cont.)

Base	Comparison	t Value
With Due Process Cases		
< 2,500	2,500-4,999	1.22
< 2,500	5,000-9,999	0.15
< 2,500	10,000-24,999	-0.14
< 2,500	>25,000	-0.01
2,500-4,999	5,000-9,999	-1.39
2,500-4,999	10,000-24,999	-1.05
2,500-4,999	>25,000	-1.23
5,000-9,999	10,000-24,999	-0.27
5,000-9,999	>25,000	-0.15
10,000-24,999	>25,000	0.14
With Litigation Cases		
< 2,500	2,500-4,999	-0.74
< 2,500	5,000-9,999	-0.48
< 2,500	10,000-24,999	0.15
< 2,500	>25,000	0.07
2,500-4,999	5,000-9,999	0.53
2,500-4,999	10,000-24,999	0.79
2,500-4,999	>25,000	0.77
5,000-9,999	10,000-24,999	0.58
5,000-9,999	>25,000	0.55
10,000-24,999	>25,000	-0.09

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Appendix D

Items about Procedural Safeguards from the SEEP District Questionnaire, Part II, Special Education Program

The items presented in this appendix provide the wording of the survey questions used to collect the data on the number of complaints, mediation cases, due process hearings, and litigation cases in 1998-99.

SECTION 11. Complaints, Mediation, Due Process, and Litigation in Special Education

11.1. Were any special education complaints against your district lodged with the State Education Agency (SEA) in 1998-1999?

Yes ☐→ **GO TO ITEM A**
No ☐→ **SKIP TO ITEM 11.2**

A. How many special education complaints against your district were submitted to the SEA in 1998-1999?

_____Complaints against your district OR None ☐

B. How many of those complaints were dismissed by the SEA?

_____ Complaints OR None ☐

C. During the 1998-1999 school year, did your district use private lawyers or other private contractors for legal services associated with special education complaints lodged against your district?

Yes ☐→ How much was spent for these legal services? $_____
No ☐

D. During the 1998-1999 school year, did your district use its own legal staff to handle complaints lodged against your district?

Yes ☐→ What was the cost of legal staff salaries and benefits for these services? $_____
No ☐

11.2. Was your district involved in special education mediation in 1998-1999?

Yes ☐→ **GO TO ITEM A**
No ☐→ **SKIP TO ITEM 11.3**

A. During the 1998-1999 school year, how many cases did your district submit to the State Department of Education for mediation?

_____ Cases OR None ☐

B. How many total active special education mediation cases are ongoing in your district at this time?

_____ Cases OR None ☐

C. How many special education mediation cases were resolved through mediation during 1998-1999?

_____ Cases OR None ☐

D. During the 1998-1999 school year, did your district use private lawyers or other private contractors for legal services associated with mediation?

Yes ☐→ How much was spent for these legal services? $_____
No ☐

E. During the 1998-1999 school year, did your district use its own legal staff to handle mediation?

Yes ☐→ What was the cost of legal staff salaries and benefits for these services? $_____
No ☐

F. What is your opinion about the cost effectiveness of mediation? (check one)

Mediation is more cost effective than due process. ☐

Mediation is less cost effective than due process. ☐

There is no difference in terms of costs to the district. ☐

11.3 Was your district involved in any due process hearings in 1998-1999?

Yes ☐→ **GO TO ITEM A**
No ☐→ **SKIP TO ITEM 11.4**

How many special education due process cases were initiated in 1998-1999?

_____ Cases OR None ☐

How many special education due process cases are presently open and pending?

_____ Cases OR None ☐

Of those due process cases that are open and pending, how many cases are simultaneously being pursued through special education mediation?

_____ Cases OR None ☐

Were any special education due process cases resolved in 1998-1999?

Yes ☐→ How many were resolved? ___ Cases → **GO TO ITEM D1**
No ☐→ **SKIP TO ITEM 11.4**

D1. How many of these cases resolved in 1998-1999 were:

a. Resolved in favor of the family? _____ OR None ☐
b. Resolved in favor of the district? _____ OR None ☐
c. Split decisions? _____ OR None ☐
d. Unresolved? _____ OR None ☐

During the 1998-1999 school year, did your district use private lawyers or other private contractors for legal services associated with due process hearings?

Yes ☐→ How much was spent for these legal services? $_____
No ☐

During the 1998-1999 school year, did your district use its own legal staff to handle due process hearings?

Yes ☐→ What was the cost of legal staff salaries and benefits for these services? $_____
No ☐

11.4. Was your district involved in any special education litigation beyond complaints, mediation, and due process hearings (described in items 11.1 through 11.3) during the 1998-99 school year?

Yes ☐→ **GO TO ITEM A**
No ☐→ **SKIP TO SECTION 12**

A. How many **court cases** involving services for special education students were **initiated** during the 1998-99 school year?

Number of court cases initiated in 1998-99 _____ OR none ☐

B. In how many other **ongoing court cases** involving services for special education students was your district involved in during the 1998-99 school year?

Number of ongoing court cases _____ OR none ☐

C. During the 1998-99 school year, did your district use private lawyers or other private contractors for legal services associated with special education court cases?

Yes ☐→How much was spent on these privately contracted legal services? $_____
No ☐

D. During the 1998-99 school year, did your district use its own legal staff to handle these court cases?

Yes ☐→What was the cost of legal staff salaries and benefits for these services? $_____
No ☐

E. Are these legal expenses for court cases included in **SECTION 3** Central Office Administration and Support for Special Education), table 3.1, 3.2, or 3.3?

Yes ☐
No ☐

F. How many of these court cases were:

	Number of cases	
a. Resolved in favor of the family.....	_____	or none ☐
b. Resolved in favor of the district.....	_____	or none ☐
c. Split decisions.....	_____	or none ☐
d. Unresolved.....	_____	or none ☐

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